

117TH CONGRESS  
1ST SESSION

# S. 3221

To reduce improper payments and eliminate waste in Federal programs,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2021

Mr. BRAUN introduced the following bill; which was read twice and referred  
to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To reduce improper payments and eliminate waste in Federal  
programs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “IRS Improper Pay-  
5       ments Act”.

**6 SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds that when the Fed-  
8       eral Government makes payments to individuals and busi-  
9       nesses as beneficiaries, grantees, or contractors, or on be-  
10      half of beneficiaries, of Federal programs, the Federal

1     Government must make every effort to confirm that the  
2     right recipient is receiving the right payment for the right  
3     reason at the right time.

4                 (b) PURPOSE.—The purpose of this Act is to—

5                         (1) reduce improper payments in the major pro-  
6                         grams administered by the Federal Government—

7                                 (A) by intensifying efforts to eliminate  
8                                 payment error, waste, fraud, and abuse in those  
9                                 programs; and

10                                 (B) continuing to ensure that Federal pro-  
11                                 grams serve and provide access to the intended  
12                                 beneficiaries of those programs;

13                                 (2) adopt a comprehensive set of policies, in-  
14                                 cluding—

15   (A) transparency and public scrutiny of  
16   significant improper payments throughout the  
17   Federal Government;

18   (B) a focus on identifying and eliminating  
19   the highest improper payments;

20   (C) accountability for reducing improper  
21   payments among agencies and officials of agen-  
22   cies; and

23   (D) coordinated action by the Federal Gov-  
24   ernment and State and local governments in

1           identifying and eliminating improper payments;  
2           and  
3           (3) protect access to Federal programs by their  
4           intended beneficiaries.

5 **SEC. 3. TITLE 31 AMENDMENTS.**

6       (a) IN GENERAL.—Subchapter IV of chapter 33 of

7 title 31, United States Code, is amended—

8           (1) in section 3351—

9               (A) by redesignating paragraphs (4), (5),  
10              (6), (7), and (8) as paragraphs (5), (6), (7),  
11              (8), and (10), respectively;

12               (B) by inserting after paragraph (3) the  
13              following:

14               “(5) HIGH-PRIORITY PROGRAM.—The term  
15              ‘high-priority program’ means a Federal program  
16              identified by the Director of the Office of Manage-  
17              ment and Budget under section 3359(a)(1).”; and

18               (C) by inserting after paragraph (8), as so  
19              redesignated, the following:

20               “(9) HIGH-PRIORITY PROGRAM REDUCTION  
21              TARGET.—The term ‘high-priority program reduc-  
22              tion target’ means a target for reducing improper  
23              payments associated with a high-priority program  
24              under section 3359(a)(2).”; and

25               (2) by adding at the end the following:

1     **“§ 3359. Transparency and public participation**

2         “(a) HIGH PRIORITY PROGRAMS.—Not later than 90  
3 days after the date of enactment of this section, the Direc-  
4 tor of the Office of Management and Budget shall—

5             “(1) identify Federal programs in which the  
6 highest dollar value or majority of Government-wide  
7 improper payments occur;

8             “(2) establish, in coordination with the head of  
9 each executive agency responsible for administering  
10 a high-priority program—

11                 “(A) annual targets for reducing improper  
12 payments associated with the high-priority pro-  
13 gram; or

14                 “(B) if a target described in subparagraph  
15 (A) exists as of the date of enactment of this  
16 Act, supplemental targets for reducing improper  
17 payments associated with the high-priority pro-  
18 gram; and

19             “(3) issue Government-wide guidance on the  
20 implementation of this Act, including procedures  
21 for—

22                 “(A) identifying and publicizing the list of  
23 entities described in subsection (c)(2)(E); and

24                 “(B) prior to publication, administratively  
25 appealing the decision to publish the identity of  
26 those entities.

1       “(b) WORKING GROUP.—

2           “(1) IN GENERAL.—Not later than 90 days  
3       after the date of enactment of this section, the Di-  
4       rector of the Office of Management and Budget  
5       shall establish a working group to be known as the  
6       ‘High Priority Program Working Group’ (referred to  
7       in this section as the ‘Working Group’).

8           “(2) MEMBERS.—The Working Group shall  
9       consist of officials of the Federal Government and  
10      State and local governments.

11          “(3) RECOMMENDATIONS.—Not later than 180  
12      days after the date of enactment of this section, the  
13      Working Group, in coordination with Council of the  
14      Inspectors General on Integrity and Efficiency, shall  
15      submit to the Director of the Office of Management  
16      and Budget recommendations designed to improve  
17      the measurement by the Federal Government of ac-  
18      cess to Federal programs by the intended bene-  
19      ficiaries of those programs.

20          “(c) PUBLISHED HIGH-PRIORITY PROGRAM INFOR-  
21      MATION.—

22           “(1) IN GENERAL.—Not later than 180 days  
23      after the date of enactment of this section, and an-  
24      nually thereafter, the Secretary of the Treasury, in  
25      coordination with the Attorney General and the Di-

1 rector of the Office of Management and Budget,  
2 shall publish on the internet information about im-  
3 proper payments under high-priority programs.

4 “(2) CONTENTS.—The information published  
5 under paragraph (1) shall include, subject to Fed-  
6 eral privacy policies and to the extent permitted by  
7 law—

8 “(A) the names of the accountable officials  
9 designated under section 3360(a);

10 “(B) rates and amounts as of the date of  
11 enactment of this section, and historical rates  
12 and amounts, of improper payments in Federal  
13 programs of the Internal Revenue Service, in-  
14 cluding, if known and appropriate, the causes of  
15 the improper payments;

16 “(C)(i) rates and amounts as of the date  
17 of enactment of this section, and historical  
18 rates and amounts, of the recovery of improper  
19 payments, where appropriate; or

20 “(ii) for high-priority programs in which  
21 improper payments are identified solely on the  
22 basis of a sample, rates and amounts of the re-  
23 covery of improper payments estimated on the  
24 basis of the applicable sample;

1               “(D) high-priority program reduction tar-  
2               gets, where appropriate; and

3               “(E) the entities that—

4                   “(i) have received the greatest amount  
5               of unreturned improper payments; and

6                   “(ii) in Federal programs in which  
7               improper payments are identified solely on  
8               the basis of a sample, have received the  
9               greatest amount of outstanding improper  
10               payments in the applicable sample.

11               “(3) MEASUREMENTS.—The Secretary of the  
12               Treasury may include in the information published  
13               under paragraph (1) any measurements included in  
14               the recommendations of the Working Group sub-  
15               mitted under subsection (b)(3).

16               “(4) PROHIBITION.—The information described  
17               in paragraph (2)(E) may not include information re-  
18               lating to any referrals the executive agency has  
19               made or anticipates making to the Attorney General  
20               or any information provided in connection with those  
21               referrals.

22               “(d) COLLECTING INFORMATION FROM THE PUB-  
23               LIC.—Not later than 180 days after the date of enactment  
24               of this section, the Secretary of the Treasury, in coordina-  
25               tion with the Attorney General and the Director of the

1 Office of Management and Budget and in consultation  
2 with the Council of the Inspectors General on Integrity  
3 and Efficiency, shall establish a central internet-based  
4 method to collect from the public information relating to  
5 suspected incidents of waste, fraud, and abuse by an entity  
6 receiving Federal funds that have led or may lead to im-  
7 proper payments by the Federal Government.

8       “(e) LINKS.—The head of each executive agency shall  
9 prominently display on the homepage of the website of the  
10 executive agency a link to internet-based resources for ad-  
11 dressing improper payments, including the information  
12 published under subsection (c)(1) and the internet-based  
13 method established under subsection (d).

14 **“§ 3360. Agency accountability and coordination**

15       “(a) ACCOUNTABLE OFFICIALS.—Not later than 120  
16 days after the date of enactment of this section, the head  
17 of each executive agency that administers a high-priority  
18 program shall designate a Senate-confirmed official of the  
19 executive agency to be accountable for meeting the high-  
20 priority program reduction targets of the executive agency  
21 without unduly burdening access to the high-priority pro-  
22 gram and participation by eligible beneficiaries.

23       “(b) SECOND OFFICIAL.—If an executive agency that  
24 administers a high-priority program for which the major-  
25 ity of payments are administered under a single compo-

1     uent of the executive agency, the head of the executive  
2     agency shall designate an official of that component, who  
3     shall—

4                 “(1) be responsible for program integrity activi-  
5                 ties; and

6                 “(2) as appropriate, consolidate and coordinate  
7                 each program integrity activity of the component.

8                 “(c) REPORT.—Not later than 180 days after the  
9     date of enactment of this section, and annually thereafter,  
10    each executive agency official who is designated by the Di-  
11    rector of the Office of Management and Budget under  
12    subsection (a) or otherwise shall provide the inspector gen-  
13    eral of the executive agency served by the official a report  
14    that includes—

15                 “(1) the methodology of the executive agency  
16    for identifying and measuring improper payments by  
17    each high-priority program of the executive agency;

18                 “(2) the plans of the executive agency and sup-  
19    porting analysis for meeting high-priority program  
20    reduction targets; and

21                 “(3) the plans of the executive agency and sup-  
22    porting analysis for ensuring that initiatives under-  
23    taken in accordance with this subchapter do not un-  
24    duly burden program access and participation by eli-  
25    gible beneficiaries.

1       “(d) DUTIES OF INSPECTOR GENERAL.—Annually,  
2 the inspector general shall, with respect to each high-pri-  
3 ority program of the executive agency—

4           “(1) assess the level of risk associated with the  
5 program;

6           “(2) determine the extent of oversight war-  
7 ranted; and

8           “(3) provide the head of the executive agency  
9 with recommendations, if any, for modifying the  
10 methodology, improper payment reduction plans, or  
11 program access and participation plans of the execu-  
12 tive agency.

13       “(e) AGENCY FAILURE.—

14           “(1) IN GENERAL.—If an executive agency fails  
15 to meet the high-priority program reduction targets  
16 of the executive agency or implement the plans de-  
17 scribed in subsection (c)(3) for not less than 2 con-  
18 secutive years, the official of the executive agency  
19 designated under subsection (a) shall submit to the  
20 head of the executive agency, the inspector general  
21 of the executive agency, and chief financial officer of  
22 the executive agency a report that—

23           “(A) describe the likely causes of the fail-  
24 ure; and

25           “(B) proposes a remedial plan.

1           “(2) REVIEW.—Annually, the head of an execu-  
2       tive agency described in paragraph (1) shall, with re-  
3       spect to a remedial plan proposed under paragraph  
4       (1)(B)—

5           “(A) review the remedial plan; and  
6           “(B) in consultation with the inspector  
7       general and chief financial officer of the execu-  
8       tive agency, forward the remedial plan and any  
9       additional comments and analysis to the Direc-  
10      tor of the Office of Management and Budget.

11     “(f) CFOC RECOMMENDATIONS.—

12           “(1) IN GENERAL.—Not later than 180 days  
13       after the date of enactment of this section, the Chief  
14       Financial Officers Council, in consultation with the  
15       Council of the Inspectors General on Integrity and  
16       Efficiency, the Attorney General, and Federal pro-  
17       gram experts, shall submit to the Director of the Of-  
18       fce of Management and Budget and the Secretary  
19       of the Treasury recommendations on actions, includ-  
20       ing actions relating to forensic accounting and au-  
21       dits, agencies should take to more effectively tailor  
22       methodologies for identifying and measuring im-  
23       proper payments to Federal programs, or compo-  
24       nents of Federal programs, in which improper pay-  
25       ments are most likely to occur.

1           “(2) CONTENTS.—The recommendations sub-  
2       mitted under paragraph (1) shall address the man-  
3       ner in which the recommended actions would affect  
4       program access and participation by eligible bene-  
5       ficiaries.

6           “(g) RECOMMENDATIONS TO REDUCE IMPROPER  
7       PAYMENTS.—

8           “(1) IN GENERAL.—Not later than 180 days  
9       after the date of enactment of this section, the Sec-  
10      retary of the Treasury and the Director of the Office  
11      of Management and Budget, in consultation with the  
12      Council of the Inspectors General on Integrity and  
13      Efficiency, the Attorney General, and Federal pro-  
14      gram experts, shall submit to the President rec-  
15      ommendations for actions designed to reduce im-  
16      proper payments by improving information sharing  
17      among agencies and Federal programs, and when  
18      applicable, State and local governments and other  
19      stakeholders.

20           “(2) CONTENTS.—The recommendations sub-  
21       mitted under paragraph (1) shall—

22           “(A) address the ways in which informa-  
23       tion sharing may improve eligibility verification  
24       and pre-payment scrutiny;

1               “(B) identify legal or regulatory impediments to effective information sharing; and

3               “(C) address the manner in which the recommended actions would affect Federal program access and participation by eligible beneficiaries.

7       “(h) REPORT.—

8               “(1) IN GENERAL.—Subject to Federal privacy policies and to the extent permitted by law, not later than 180 days after the date of enactment of this section, and not less frequently than quarterly thereafter, the head of each executive agency shall submit to the inspector general of the executive agency and the Council of the Inspectors General on Integrity and Efficiency, and make available to the public, a report on any high-dollar improper payments identified by the executive agency.

18               “(2) CONTENTS.—The report required under paragraph (1)—

20               “(A) shall describe any actions that the executive agency—

22               “(i) has taken or plans to take to recover improper payments; and

1                         “(ii) intends to take to prevent im-  
2                         proper payments from occurring in the fu-  
3                         ture; and

4                         “(B) may not include any referrals the ex-  
5                         ecutive agency made or anticipates making to  
6                         the Attorney General or any information pro-  
7                         vided in connection with those referrals.

8                         “(3) REVIEW.—Not later than 60 days after  
9                         the date on which the head of an executive agency  
10                         submits a report under paragraph (1), the inspector  
11                         general of each executive agency and the Council of  
12                         the Inspectors General on Integrity and Efficiency  
13                         shall—

14                         “(A) assess the level of risk associated  
15                         with the Federal program under which a high-  
16                         dollar improper payment described in para-  
17                         graph (1) was made;

18                         “(B) determine the extent of oversight of  
19                         the Federal program described in subparagraph  
20                         (A) that is warranted; and

21                         “(C) provide the head of the executive  
22                         agency with recommendations, if any, for modi-  
23                         fying the plans of the executive agency.

3       “(a) ENHANCED FOCUS ON CONTRACTORS.—Not  
4 later than 180 days after the date of enactment of this  
5 section, the Federal Acquisition Regulatory Council, in co-  
6 ordination with the Director of the Office of Management  
7 and Budget and in consultation with the National Pro-  
8 curement Fraud Task Force (or its successor group), the  
9 Council of the Inspectors General on Integrity and Effi-  
10 ciency, and appropriate executive agency officials, shall  
11 recommend to the President actions designed to enhance  
12 contractor accountability for improper payments, which  
13 may include subjecting contractors to debarment, suspen-  
14 sion, financial penalties, and identification through a pub-  
15 lic internet website, subject to Federal privacy policies and  
16 to the extent permitted by law and where the identification  
17 would not interfere with or compromise an ongoing crimi-  
18 nal or civil investigation, for knowingly failing timely to  
19 disclose credible evidence of significant overpayments re-  
20 ceived under Federal contracts.

**21        "(b) WORKING GROUP FOR AUDITS.—**

“(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, the Director of the Office of Management and Budget shall establish a working group to be known as the ‘Auditing Working Group’.

1                 “(2) MEMBERS.—The working group estab-  
2         lished under paragraph (1) shall consist of officials  
3         of the Federal Government and elected officials of  
4         State and local governments.

5                 “(3) CHAIR.—The Director of the Office of  
6         Management and Budget may designate an appro-  
7         priate official to serve as the Chair of the working  
8         group established under paragraph (1) to convene  
9         the meetings and direct the work of the working  
10         group.

11                 “(4) DUTIES.—Not later than 180 days after  
12         the date of enactment of this section, the working  
13         group established under paragraph (1), in coordina-  
14         tion with the Council of the Inspectors General on  
15         Integrity and Efficiency, shall submit to the Director  
16         of the Office of Management and Budget rec-  
17         ommendations designed to improve the effectiveness  
18         of single audits of State and local governments and  
19         nonprofit organizations that expend Federal funds.

20                 “(5) CONTENTS.—The recommendations re-  
21         quired under paragraph (4) shall address—

22                     “(A) the effectiveness of the audits de-  
23         scribed in that paragraph in identifying im-  
24         proper payments; and

1                 “(B) opportunities to streamline or eliminate single audit requirements in situations in  
2                 which the value of those requirements is minimal.  
3

4

5                 “(c) WORKING GROUP FOR ACCOUNTABILITY.—

6                 “(1) IN GENERAL.—Not later than 30 days  
7                 after the date of enactment of this section, the Director of the Office of Management and Budget  
8                 shall establish a working group, which may be a component of the working group established under  
9                 subsection (b), to be known as the ‘Accountability Working Group’.

10                 “(2) MEMBERS.—The working group established under paragraph (1) shall consist of officials of the Federal Government and elected officials of State and local governments.

11                 “(3) CHAIR.—The Director of the Office of Management and Budget may designate an appropriate official to serve as the Chair of the working group established under paragraph (1) to convene the meetings and direct the work of the working group.

12                 “(4) DUTIES.—Not later than 180 days after the date of enactment of this section, the working group established under paragraph (1), in consulta-

1       tion with the Council of the Inspectors General on  
2       Integrity and Efficiency, shall submit to the Director  
3       of the Office of Management and Budget rec-  
4       ommendations for administrative actions designed to  
5       improve the incentives and accountability of State  
6       and local governments and other entities receiving  
7       Federal funds for reducing improper payments.

8       **“§ 3362. Policy proposals**

9       “(a) IN GENERAL.—Not later than 180 days after  
10      the date of enactment of this section, the Director of the  
11      Office of Management and Budget, in consultation with  
12      the heads of appropriate agencies and the Council of the  
13      Inspectors General on Integrity and Efficiency, shall de-  
14      velop policy recommendations, including potential legisla-  
15      tive proposals, designed to reduce improper payments, in-  
16      cluding improper payments caused by error, waste, fraud,  
17      and abuse, across Federal programs without compro-  
18      mising program access.

19       “(b) INCLUSION.—The recommendations developed  
20      under subsection (a) shall be included, as appropriate, in  
21      the budget of the President under section 1105(a) of title  
22      31, United States Code for fiscal year 2023 and each fis-  
23      cal year thereafter.”.

1       (b) CLERICAL AMENDMENT.—The table of sections  
2 for subchapter IV of chapter 33 of title 31, United States  
3 Code, is amended by adding at the end the following:

“3359. Transparency and public participation.

“3360. Agency accountability and coordination.

“3361. Enhanced focus on contractors and working with State and local stakeholders.

“3362. Policy proposals.”.

